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LaDonna H. Thompson
Commissioner

September 30, 2010

The Honorable Crit Luallen
Auditor of Public Accounts
209 St. Clair Street
Frankfort, Kentucky 40601-1817

RE: Agency Response to Review of DOC-ARAMARK Food Service Contract

Dear Ms. Luallen:

On behalf of the Kentucky Department of Corrections (DOC), please accept this letter in response to the (Draft) Examination of the Kentucky Department of Corrections' Food Services Contract with ARAMARK Correctional Services, LLC. We appreciate the opportunity to provide this initial feedback to the findings and recommendations associated with the report, as well as the additional opinions expressed in it.

DOC recognizes that the Auditor of Public Accounts (APA) has conducted a very extensive examination of all aspects of DOC/ARAMARK operations over a five-month period. There are key findings within the report that DOC would like to emphasize:

- The APA report indicates that the contract with ARAMARK represents a substantial savings to the taxpayers of the Commonwealth in that DOC's current per diem price of \$2.63 per inmate is in the lower end of a range of \$2.35 to \$3.29 per inmate, as revealed in information recently gathered by APA from other states. The savings is further exemplified when considering the DOC cost per inmate in 2004 prior to the contract was \$3.28 and was subject to inflation each subsequent year. (Refer to Page 9 of the report)
- The APA report confirms that the Master Menu providing for 2800 calories per day is appropriate and in line with other state correctional system requirements. The auditors also state that the DOC Master Menu does not violate industry standards. (Refer to Pages 7 and 8 of the report)

- The auditors reviewed records, conducted site visits, and interviewed staff and did not indicate any finding to substantiate the allegation implicating food service operations as a contributing factor in the disturbance at the Northpoint Training Center in August of 2009. The report did not make any recommendations other than for the operation of the temporary kitchen facility. (Refer to Pages 40 and 41 of the report)
- The report confirmed that ARAMARK canteen operations, which are present in only two (2) of the thirteen (13) state facilities, did not reflect price gouging, a pattern of decreased rate of meal participation, or an inappropriate award of contract. (Refer to Page 6 of the report)

DOC has completed the review of the findings noted on the cover page of the draft audit report and responses to the findings follow:

- 1. ARAMARK declined the auditors' requests for certain cost records requested for its examination. The auditors recommend DOC and Finance and Administration Cabinet (FAC) review the contractual provisions contained in Section 40.195 of the contract to determine whether ARAMARK is in breach of contract for its failure to submit relevant financial records to the APA.**
 - DOC agrees to meet with FAC to determine if ARAMARK is in breach of contract for failure to submit relevant financial records to the APA.
- 2. The examination identified more than \$36,000 in overpayments made by DOC to ARAMARK due to billing errors and non-compliances with contract provisions, which may exceed \$130,000 when projected.**
 - DOC agrees that billing errors have occurred due to estimations of inmate counts for weekends, inmate religious meals, staff meals, and meals for the Kentucky Psychiatric Treatment Center, as noted in the report. With the advent of increased technology and databases within DOC, up-to-date count reports will provide an immediate correction for the identified billing errors.
- 3. Auditors were unable to verify that ARAMARK consistently followed approved recipes, used the proper quantity of ingredients, and met food safety standards regarding food temperature or use of leftovers due to poor documentation.**

DOC agrees with the recommendations from APA that call for increased monitoring efforts to include:

- Development of a standard monthly report
- Increased documentation of menu modifications and substitutions
- Increased documentation of the use of leftovers

- Resolving discrepancies of portion sizes and weight

4. ARAMARK received almost \$148,000 in inmate-grown food for nearly no cost, which is not compliant with contract provisions.

DOC agrees with the recommendation to re-examine the policy on the use of inmate-grown food. ARAMARK is billed for produce that is used as a menu item substitute, but is not billed for produce used as a supplement. As a matter of good practice, DOC will increase the documentation concerning the quality, billing, and value of inmate-grown produce, as well as whether the produce is appropriate to be used as a substitute or serve as a supplemental item to the menu.

5. DOC does not appear to have a comprehensive contract monitoring process in place.

DOC does not agree that there is not a comprehensive contract monitoring process. The current monitoring includes staff at each facility as well as staff in central office. This process includes:

- Approval of the Master Menu by the Director of Nutrition
- Meal evaluation by DOC staff, which requires staff to participate in meal at each service, to document temperatures, quality, and quantities
- Review of inmate grievances at institutional and central office level
- Daily meal reports completed by DOC documenting delays/shortages
- Approval of substitutions at central office
- Inmate Menu surveys conducted on annual basis
- Presence of DOC staff in dining room/kitchen for all meals
- On site inspections by Central Office staff
- Sanitation Inspections completed by DOC twice weekly
- Monthly review of inmate and staff meal counts at both institutional and central office level
- Monthly review of Invoice from contractor by institution
- Health Department Inspections on semi-annual basis
- Audits by American Correctional Association
- Annual audits by Program Security Review team

However, DOC appreciates the recommendation to further enhance the current monitoring strategy of all aspects of food service operations and contract compliance. The monitoring strategy will include quarterly review meetings at the central office level, increased documentation of operations, and documented corrective action plans. DOC will review the assignment of staff to accomplish this monitoring strategy.

DOC has completed the review of the findings noted in the body of the draft audit report and responses to the findings follow:

- **Recommendation for a cost analysis to be conducted for the master menu when considering changes in the contractual cost of services.**

All reviews for changes in contractual cost of services are conducted in accordance with Section 50.410 of the ARAMARK contract which states, “Any price increase shall not exceed three percent (3%) or the annual Consumer Price Index, whichever is less.” The most recent contract modification in January of 2009 changed the language to four percent (4%) or the Consumer Price Index. DOC uses both the “Food Away From Home – South Urban Area” and “Food at Employee Sites and Schools” consumer indices for analysis as recommended by the Bureau of Labor Statistics. These indexes provide a complex and integrated benchmark in which to compare the increased costs to ARAMARK, including food commodities.

ARAMARK received a 3% rate increase effective July 1, 2008. The next 3% rate increase was effective on January 5, 2009. There was no increase in 2010.

- **Recommendation that DOC review its meal time policies to meet the requirement of less than 14 hours between the evening meal and following breakfast meal.**

DOC consistently maintains compliance in all facilities with ACA standards applying to time periods between meals. This practice is documented in annual reviews. It should be noted that the auditors only had the opportunity to review the meal start times and did not review documentation of the meal periods, which can last up to 1 ½ to 2 hours. DOC will continue to monitor meal time periods to ensure continued compliance with contractual and ACA standards.

- **Recommendation that DOC implement periodic no-notice testing procedures for food temperatures.**

DOC currently documents food temperatures and accepts the recommendation to conduct no-notice testing on a weekly basis.

- **Recommendation to document line stoppages and food shortages in a monthly report.**

DOC accepts this recommendation.

- **Recommendation that DOC require ARAMARK to attach invoices for food products related to Fresh Favorites with its invoice.**

DOC agrees with this recommendation as a good practice to document the Fresh Favorite program.

- **Recommendation that DOC modify the contract to address equipment concerns.**

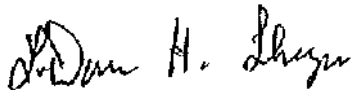
DOC agrees that there is a need to establish accountability for the repair and replacement of equipment. Equipment issues are to be documented in the monthly reports and quarterly meetings. DOC will evaluate the cost benefit of requiring equipment replacement by the vendor in future contract reviews.

- **Recommendation regarding Kentucky Centralized Inmate Commissary, Inc (KCIC).**

The DOC agrees with the opinion of the Finance and Administration Cabinet regarding KCIC's position. KCIC is required to be audited annually by an outside agency. The KCIC is required to file semi-annual reports with the Interim Joint Committee on Appropriations and Revenue detailing the revenues and expenditures from the Canteen Fund for each state-operated prison, private prison, and the central office of the department.

This concludes our responses to the draft audit document. Please contact me if clarification is needed for any statements the Department has submitted in this response.

Sincerely,

A handwritten signature in black ink, appearing to read "LaDonna H. Thompson". The signature is fluid and cursive, with the first name being the most prominent.

LaDonna H. Thompson
Commissioner